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In re Application of:	:	
WALDEN, Richard, et al.	:	DECISION ON PETITION
U.S. Application No.: 10/590,614	:	(37 CFR 1.181)
PCT No.: PCT/GB2005/000761	:	
International Filing Date: 28 February 2005	:	
Priority Date: 26 February 2004	:	
Atty Docket No.: ROCKCO P71AUS	:	
For: IMPROVED CAN PROCESSING	:	

This decision is issued in response to the "Response To Notice To File Missing Parts Of Application – Filing Date Granted" filed 13 March 2007, and the supplemental materials filed by facsimile on 14 August 2007, treated herein as a petition under 37 CFR 1.181 to confirm the previous filing of a fully executed declaration. No petition fee is required.

### **BACKGROUND**

On 28 February 2005, applicants filed international application PCT/GB2005/000761. The international application claimed a priority date of 26 February 2004, and it designated the United States. On 09 September 2005, the International Bureau (IB) communicated a copy of the international application to the United States Patent and Trademark Office (USPTO). The deadline for submission of the basic national fee was thirty months from the priority date, i.e., 26 August 2006.

On 25 August 2006, applicants filed a Transmittal Letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee and an unsigned declaration.

On 09 March 2007, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating that a properly executed oath or declaration in compliance with 37 CFR 1.497 was required. The Notification indicated that the previously filed declaration was not acceptable because it was not executed in accordance with 37 CFR 1.66 or 1.68.

On 13 March 2007, applicants filed the correspondence considered herein as a petition under 37 CFR 1.181. The correspondence asserts that the outstanding informalities were previously addressed in a submission filed on 26 September 2006, and it states that copies of such materials are attached. Attached to the correspondence are copies of: (1) the Notification Of Missing Requirements received by applicants; (2) a Form PTO-1390 Transmittal Letter which indicates that it was accompanied by an oath or declaration and a surcharge payment and which

bears a "Certification Under 37 CFR 1.10" dated 26 September 2006; and (3) a sheet corresponding to the first page of the previously filed "Combined Declaration And Power Of Attorney."

On 14 August 2007, applicants filed supplemental materials including a complete copy of the materials filed 26 September 2006 (with the full three-page executed declaration) and a copy of a return postcard itemizing these materials and bearing a USPTO receipt stamp dated 26 September 2006.

### DISCUSSION

Based on the statements in the present petition and the itemized return postcard bearing the USPTO receipt stamp, it is concluded that materials accompanying the present petition (including the executed declaration) were originally filed herein on 26 September 2006.

The declaration satisfies the requirements of 37 CFR 1.497.

The Notification of Missing Requirements mailed 09 March 2007, based as it was on applicants' purported failure to previously file an executed declaration, is appropriately vacated.

### CONCLUSION

The petition under 37 CFR 1.181 is **GRANTED**.

The declaration accompanying the present petition will be treated as having been filed on 26 September 2006.

The Notification of Missing Requirements (Form PCT/DO/EO/905) mailed 09 March 2007 is hereby **VACATED**.

This application is being returned to the National Stage Processing Branch of the International Division for further processing in accordance with this decision. The date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) is 26 September 2006.



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